

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
OXFORD DIVISION**

**PAUL HARDAWAY and
JACQUELINE HARDAWAY**

PLAINTIFFS

v.

CIVIL ACTION NO. 3:17cv4-DMB-RP

**LITTON LOAN SERVICING, LP,
OCWEN LOAN SERVICING, LLC,
and RUSHMORE LOAN MANAGEMENT
SERVICES, INC.**

DEFENDANTS

ORDER STAYING CASE PENDING RULING ON MOTION TO DISMISS

All of the defendants who have appeared in this action have filed motions to dismiss asserting insufficient service of process. Docket 4, 5 and 7. A claim of insufficient service of process is considered a jurisdictional defense, as the court would lack personal jurisdiction over a defendant for whom service of process was insufficient. *See Flory v. United States*, 79 F.3d 24, 24-26 (5th Cir. 1996)(treating claim of insufficient service of process as jurisdictional defense); *Golden v. Cox Furniture Mfg. Co., Inc.*, 683 F.2d 115 (5th Cir. 1982)(considering claim of insufficient service of process “and consequent lack of personal jurisdiction”); *see also Regions Bank v. Britt*, 642 F.Supp. 584, 587 (S.D. Miss. 2009)(discussing waiver of jurisdictional defenses “such as insufficiency of service of process”).

Under Local Uniform Civil Rule 16(b)(3)(B) the filing of “a motion asserting an immunity defense or jurisdictional defense stays the attorney conference and disclosure requirements and all discovery, pending the court’s ruling on the motion, including any appeal.” Consequently, the attorney conference and disclosure requirements and all discovery are hereby

stayed, and the Case Management Conference is continued, pending a ruling on the motion to dismiss. Counsel are directed to notify the undersigned within seven days of a ruling on the motion to dismiss.

SO ORDERED, this, the 20th day of March, 2017.

/s/ Roy Percy
UNITED STATES MAGISTRATE JUDGE